

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE MARTIN,

Plaintiff

v.

SECRETARY OF CORRECTIONS, et al.,
Defendants.

No. 3:16-CV-2060

**FILED
SCRANTON**

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PLAINTIFF'S PRETRIAL STATEMENT

I. Statement of the Case

This case arise out of the May 5, 2015, brutal-excessive force assault plaintiff was forced to suffer at the hands of Pennsylvania Department of Corrections employed defendants'. In particular, plaintiff alleges that he was attacked by several correctional officers at SCI-Smithfield on May 5, 2015. Plaintiff, states that his cell door was electronically opened at approximately 2:18 pm, and that he approached Defendants Myers and Defendant Dickson to request a law library pass. When Defendant Myers advised plaintiff to obtain the pass from the Sergeant. Plaintiff states that he then approached the Sergeant and requested a law library pass, who then advised plaintiff to request the pass from Defendant Myers. However when plaintiff returned back to Defendant Myers to request the pass... Defendant Myers was then speaking with two other inmates, when the opportunity presented itself, plaintiff, again requested the law library pass; but Defendant Myers responded by yelling at plaintiff. When plaintiff asked to speak with a lietenant.... Defendant Myers "became upset and enraged". Defendant Myers then ordered plaintiff to go into a separate room, plaintiff however refused that order. Simultaneously, when several correctional officers surrounded plaintiff.

Specifically, Defendants Myers, Dickson, Kanagy, Fazenbaker, Bickel, Barger and Morrison assaulted plaintiff and inflicted excessive-unnecessary force during this assault. Defendants's punched, kicked and stabbed plaintiff in the face while also verbally assaulting plaintiff. As Defendant Gaff failed to stop the assault, correctional officers at some point during the assault carried plaintiff off of the block head first, while intentionally ramming plaintiff's head on the steel door frames. As a result of this assault, plaintiff sustained and till date continues

to suffer multiple injuries to his face, head, leg, arm and body, as well as psychological trauma.

Ultimately, in effort to shift the blame of the assault.... correctional officers attempted to charge plaintiff with criminal acts of assault. (CP-31-CR-581-2015 Huntington County, Pennsylvania).

II. Exhibits

At trial, plaintiff may use any or all of the following exhibits:

1. Defendants April 12, 2019 Cover Letter and Produced Letters, Exhibits, Memorandum and any and all other tangibles.... resulting United States District Court's January 23, 2019, issued Order. Appended hereto at Appendix "A".

Disclosed Documents described as:

- i). Unsworn Declaration of Lisa Hollibaugh;
- ii). Description of defendants height, weight and age;
- iii). History of defendants' reported ethic violations;
- iv). Major of Guards R.C. Chism COV Investigative Summary Review;
- v). Index of Defendant's April 12, 2019 disclosed documents;
- vi). Investigator G. Allison; Predication Case No. 2015-A-300/2015-P-45;
- vii). Memorandum Interview of Inmate Bobby Williamson DQ9200;
- viii). Memorandum Interview of Plaintiff Tyrone Martin KC5108;
- ix). Memorandum Interview of Inmate Derek Seals KS1656;
- x). Memorandum Interview of Benjamin Sutton LY2876;
- xi). Memorandum Interview of Lieutenant Susan Gaff;
- xii). Memorandum Interview of CO Samuel Bickel;
- xiii). Memorandum Interview of COT Frederick Disher;
- xiv). Memorandum Interview of CO Steven Friedenberger;
- xv). Memorandum Interview of CO Edward Rhodes;
- xvi). Memorandum Interview of CO Frederick Palm;
- xvii). Memorandum Interview of Matthew Morrison;
- xviii). Memorandum Interview of Melissa Payne;
- xix). Memorandum Interview of CO Kevin Barger;
- xx). Memorandum Interview of UM Richard Kustenbauder;
- xxi). Memorandum Interview of CO Bradd Fazenbaker;
- xxii). Memorandum Interview of CO Travis Glass;
- xxiii). Memorandum Interview of CO Devin York;
- xxiv). Memorandum Interview of CO Timothy Myers;
- xxv). Memorandum Interview of Alan Gorba;
- xxvi). Memorandum Interview of COT Brent Dickson;
- xxvii). Memorandum Interview of CO Daniel Cooper;
- xxviii). Memorandum Interview of Sgt. Paula Brindle;
- xxix). Memorandum Interview of CO Curtis Stevens;
- xxx). Memorandum Interview of LPN Carrie Wiser;
- xxxi). Memorandum Interview of CO Ryan Kanagy;
- xxxii). Memorandum Interview of Sgt. Steven Manges;
- xxxiii). Memorandum Interview of CO David Mock;
- xxxiv). Memorandum Interview of Robert Wade;
- xxxv). Justin Carter- HE1640 (Affidavit) filed 10-14-16 pages 15-16 of 100

- xxxvi). Memorandum Interview of CO Joshua Stamper;
- xxxvii). Memorandum Interview of RN Lindsey Burkey;
- xxxviii). Investigative Insert Rejected Grievance #569963-15;
- xxxix). Investigative Insert Affidavit Authored by Inmate Williamson;
- xl). Investigative Insert Grievance #569963-15;
- xli). Investigative Insert EOR # 2015-SMI-00089;
- xlii). Investigative Insert hand-held Video;
- xliii). Investigative Insert Bosch Video;
- xliv). Plaintiff Tyrone Martin hand written Statement;
- xlv). Susan Gaff staff-written statement;
- xlvi). Sam Bickel staff-written statement;
- xlvii). Frederick Disher, Jr. staff written statement;
- xlviii). Steven Friedenberger staff written statement;
- xlvi). Edwards Rhodes staff written statement;
- li). Frederick Palm staff written statement;
- lii). Matthew Morrison staff written statement;
- liii). Melissa Payne staff written statement;
- liiii). Kevin Barger staff written statement;
- liv). Richard Kusteabauder staff written statement;
- lv). Bradd Fazenbaker staff written statement;
- lvi). Travis Glass staff written statement;
- lvii). Irvin York staff written statement;
- lviii). Timothy Myers staff written statement;
- lix). Alan Gurba staff written statement;
- lx). Brent Dickson staff written statement;
- lxi). Daniel Cooper staff written statement;
- lxii). Paula Brindle staff written statement;
- lxiii). Curtis Stevens staff written statement;
- lxiv). Carrier Wiser staff written statement;
- lxv). Ryan Kanagy staff written statement;
- lxvi). Steve Manges staff written statement;
- lxvii). David Mock staff written statement;
- lxviii). Robert Wade staff written statement;
- lxix). Joshua Stamper staff written statement;
- lxx). Lindsey Burkey staff written statement;
- lxxi). Plaintiff's official inmate grievance# 569963-15
- lxxii). Bobby k Williamson DQ9200 May 5, 2015, prepared Affidavit of Probable Cause;
- lxxiii). Plaintiff's official inmate grievance# 565802-15
- lxxiv). Unknown Documents Identified within Defendants'
April 12, 2019, disclosure as documents MARTIN.DEF000084;
MARTIN.DEF000085; MARTIN.DEF000086; MARTIN.DEF000087;
- lxxv). S. Gaff 5/5/2015 prepared DC-121report;
- lxxvi). S. Manges 5/5/2015 prepared DC-121report;
- lxxvii). R. Kanagy 5/5/2015 prepared DC-121report;
- lxxviii). T. Myers 5/5/2015 prepared DC-121report;
- lxxix). B. Fazenbaker 5/5/2015 prepared DC-121report;
- lxxx). COT B. Dickson 5/5/2015 prepared DC-121report;
- lxxxi). M. Payne 5/5/2015 prepared DC-121report;
- lxxxii). S. Bickel 5/5/2015 prepared DC-121report;

- lxxxiii). P. Brindle 5/5/2015 prepared DC-121report;
- lxxxiv). R. Wade 5/5/2015 prepared DC-121report;
- lxxxv). K. Barger 5/5/2015 prepared DC-121report;
- lxxxvi). R. Kustenbauder 5/5/2015 prepared DC-121report;
- lxxxvii). J. Stamper 5/5/2015 prepared DC-121report;
- lxxxviii). M. Morrison 5/5/2015 prepared DC-121report;
- lxxxix). S. Friedenberger 5/5/2015 prepared DC-121report;
- lxl). D. Cooper 5/5/2015 prepared DC-121report;
- lxil). T. Glass 5/5/2015 prepared DC-121report;
- lxiii). F. Disher 5/5/2015 prepared DC-121report;
- lxiiil). E. Rhodes 5/5/2015 prepared DC-121report;
- lxivl). F. Palm 5/5/2015 prepared DC-121report;
- lxvl). C. Stevens 5/5/2015 prepared DC-121report;
- lxvii). D. York 5/5/2015 prepared DC-121report;
- lxviii). D. Mock 5/5/2015 prepared DC-121report;
- lxviiiil). L. Burkey 5/5/2015 prepared DC-121report;
- lxixl). C. Wiser 5/5/2015 prepared DC-121report;
- c). A Gorba 5/5/2015 prepared DC-121report;
- ci). T. Myers 5/5/2015 prepared DC 141 misconduct report;
- cii). R. Kanagy 5/5/2015 prepared DC 141 misconduct report;
- ciii). Plaintiff's PA DOC Generated "C1 Face Sheet";
- civ). All medical reports for plaintiff and defendants stemming 5/5/2015 assault;
- cv). All photographs, pictures and any other image captured documents stemming 5/5/2015 incident/assault;
- cvi). All video evidence provided;

2. Hunitington County Court of Common Pleas Non-Jury trial transcripts (i.e., No. CP-31-CR-581-2015). Appended hereto at Appendix "B".

3. Attorney Marianne Sawicki May 11, 2015, notice and request to preserve all related video footage. Appended hereto at Appendix "C"

4. Christopher B. Wencker (trial counsel) October 10, 2017, October 25, 2017, and January 12, 2018, emails. Appended hereto at Appendix "D".

5. Pennsylvania State Police May 10, 2015, and May 13, 2015, dated incident reports. Appended hereto at Appendix "E".

6. Pennsylvania State Police July 9, 2015, Affidavit of Probable Cause. Appended hereto at Appendix "F".

7. All documents Entries filed to Civil Action No. 3:16-cv-2060 Docket, and identified as documents 1 through 196;

Plaintiff reserves the right to use any exhibits listed in the defendant's pretrial statement. Plaintiff also reserves the right to amend the foregoing list of exhibits within a meaningful time prior to trial.

8. Any and all phone/audio recordings relating to the 05/05/2015, assault.

III. Witnesses

At trial, plaintiff may call any or all of the following witnesses:

9. Martin Hobbs employee of Pa. Department of Corrections; (Video evidence)

10. Lisa Hollibaugh employee of Pa. Department of Corrections;

11. Gail Lewis employee of Pa. Department of Corrections;

12. Correctional Officer Reese employee of Pa. Department of Corrections; (Block Officer of 6:am till 2:pm shift)

13. Marianne Sawicki, attorney of law 2530 Blair Avenue, Huntington Pa. 16652.

14. Bobby K. Williamson, State No. DQ9200 confined prisoner within Pa. Department of Corrections; (eye witness)

15. Justin Carter, , State No. HE1640 confined prisoner within Pa. Department of Corrections; (eye witness)

16. Corday Wise, State No. KQ7821 confined prisoner within Pa. Department of Corrections; (eye witness)

17. Nathaniel Salter, State No. KL5655 confined prisoner within Pa. Department of Corrections; (eye witness)

18. Hal Smith, State No. KJ9541 confined prisoner within Pa. Department of Corrections; (eye witness)

19. Milique Wagner, State No. KW8222 confined prisoner within Pa. Department of Corrections; (eye witness)

20. Lieutenant Allison employee of Pa. Department of Corrections; (investigator)

21. Correctional Officer Payne employee of Pa. Department of Corrections; (involved)

22. Correctional Officer Gladfelter employee of Pa. Department of Corrections (6:am to 2:pm shift)

23. Christopher Wensker, attorney of law at Shoaf and Wencker, LLC, Law Office, at P.L.C. 201 Fift Street, Suite 201, Huntington, Pa 16652. (Trial attorney).

24. Pennsylvania State Trooper Jonathan Thomas, 1800 Elmerton Avenue, Harrisburgm PA 17110; (investigator)

Plaintiff reserves the right to call any witnesses in the defendants pretrial statement to

amend the foregoing list of witnesses within a meaningful time prior to trial.

IV. Outstanding Legal Issues

There are no outstanding legal issues in this case.

V. Experts

There are no expert witnesses at this time in this case.

Respectfully submitted,

dated:

Tyrone Martin
No. KC5108
SCI Phoenix
P.O. Box 244
Collegeville, PA 19426

CERTIFICATE OF SERVICE

I hereby certify I am serving a true and correct copy of the foregoing Plaintiff's Pretrial Statement, upon the following persons. Executed on this 28 day of July, 2022.

~~Jessica Davis~~

~~Office of the Attorney General~~
~~16th Floor, Strawberry Square~~
~~Harrisburg, PA 17120~~

NICOLE DITOMO

1000 MADISON AVE SUITE 310
NORRISTOWN, PA. 19403

Respectfully submitted,



Tyrone Martin

No. KC5108

SCI Phoenix

P.O. Box 244

Collegeville, PA 19426

dated:

Tyrone Martin, KC-5108
SCI Phoenix
P.O. Box 244
Collegeville, PA 19426

Number

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